Appl. No. 09/687,157
Amdt. dated: _____ May 25, 2006 _____
Reply to Office Action of February 28, 2006

PATENT

## REMARKS/ARGUMENTS

Prior to entry of this Amendment, claims 1, 2, 4-15 and 17-22 were pending in this application. No claims are amended, no claims are added, and no claims are canceled herein. Therefore, claims 1, 2, 4-15 and 17-22 remain pending in this application. The Applicants respectfully request reconsideration of this application for at least the reasons presented below.

### 35 U.S.C. §102 Rejection, Kalva

The Office Action has rejected claims 1, 2, 4-15 and 17-22 under 35 U.S.C. §102(a) as being unpatentable over Kalva et al., "Techniques for Improving the Capacity of Video on Demand Systems", Proceeding of the 19th Annul International Conference on System Science, IEEE 1996, pp. 308-315 (hereinafter "Kalva"). The Applicant respectfully submits the following arguments pointing out significant differences between claims 1, 2, 4-15 and 17-22 submitted by the Applicant and Kalva.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully argue that Kalva fails to disclose each and every claimed element. For example, Kalva fails to disclose, either expressly or inherently, commanding the end device to store content, i.e., a video or audio program, before a user specifically requests the content

Kalva is directed to combining segmentation, i.e., dividing a video into several fixed length segments for transmission, with multicasting, i.e., sending the same video segment to multiple subscribers simultaneously, in a video-on-demand system. (Abstract, page 308) However, Kalva does not disclose commanding an end device to store content, i.e., a video or

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audio program, before a user specifically requests the content. Rather, under Kalva, it is only after the user specifically requests content that the segments are downloaded to the users location. For example, see page 310 third paragraph lines 4 and 5 ("The control connection that exists between the user and the server at the head-end is used to request videos"), page 310 fourth paragraph lines 8-17 ("there is a possibility that more that one user requests the same video" and "popular videos are requested by many users" and "if a requested video is multicast"), and page 310 fifth paragraph lines 1-3 ("a video is multicast to users who request the video"), all indicating that the video segments are downloaded after they are requested by the user.

More specifically, see page 311 figure 4 and the following three paragraphs. As indicated in figure 4, the segments are multicast only after users request the video. For example, "users 1 and 2 request a video at the same time (t=0) and the movie is multicast to them" AFTER t=0. (See page 311, para. 2, lines 1 and 2) Kalva goes on to state "if Sn is the number of segments that can be buffered at users' premises, for partial multicasting to be possible, **the video has to be requested before segment number Sn is transmitted**." (page 311, para. 4, lines 1-4, emphasis added)

Claim 1, upon which claims 2, 4-7, and 21-22 depend, is directed to a method for distributing content sent by a content distributor to a user location. Claim 14, upon which claims 15 and 17-20 depend, is directed to a distribution program product having code for distributing content sent by a content distributor to a user location. Both claim 1 and claim 14 recite in part "receiving a command from the content distributor to store the content at the user location before a user specifically requests the content, wherein the content comprises at least one of a video program or an audio program." Kalva does not disclose receiving a command from the content distributor to store content, i.e., a video or audio program, at the user location before a user specifically requests the content. Rather, Kalva teaches multicasting segments of a video **only after** the video is requested. For at least these reasons, claims 1-2, 4-7, 14-15, and 17-22 are distinguishable from Kalva and should be allowed.

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Claim 8, upon which claims 9-13 depend, is directed to a method for distributing content sent by a content distributor to a user location and recites in part "commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content" and "sending the content to the user location for storage before a user specifically requests the, wherein the content comprises at least one of a video program or an audio program." Kalva does not disclose commanding the user location to store the content from the content distributor without a user associated with the user location specifically requesting the content or sending the content to the user location for storage before a user specifically requests the content. Rather, Kalva teaches multicasting segments of a video **only after** the video is requested. For at least these reasons, claims 8-13 are distinguishable from Kalva and should be allowed.

## CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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